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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Armenia, Azerbaijan, Bangladesh, Benin, Chile, Côte d'Ivoire, Ecuador, Georgia, Germany, Kazakhstan, Kyrgyzstan, Romania, Senegal, Spain, the former Yugoslav Republic of Macedonia, Uzbekistan and Venezuela (Bolivarian Republic of): draft resolution

Missing persons

The General Assembly,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949[1] and the Additional Protocols thereto of 1977,[2] as well as international standards of human rights, in particular the Universal Declaration of Human Rights,[3] the International Covenant on Economic, Social and Cultural Rights,[4] the International Covenant on Civil and Political Rights,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] the Convention on the Rights of the Child[6] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[7]

[1] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[2] Ibid., vol. 1125, Nos. 17512 and 17513.
[3] Resolution 217 A (III).
[4] See resolution 2200 A (XXI), annex.
[5] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[6] Ibid., vol. 1577, No. 27531.
[7] A/CONF.157/24 (Part I), chap. III.

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Welcoming the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance,[8] and looking forward to its entry into force,

Recalling all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions adopted by the Commission on Human Rights and the Human Rights Council,

Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Noting also that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and causes suffering to the families of missing persons, and stressing in this regard the need to address the issue from a humanitarian perspective, among others,

Considering that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate,

Being cognizant that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons and determining the fate of missing persons and for recognizing their accountability as regards implementing the relevant mechanisms, policies and laws,

Bearing in mind the effective search for and identification of missing persons through traditional forensic methods, and recognizing that great technological progress has been achieved in the field of DNA forensic sciences, which could significantly assist efforts to identify missing persons,

Recalling the Agenda for Humanitarian Action, in particular its general objective 1, to "respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families", adopted at the Twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 on the reaffirmation and implementation of international humanitarian law, entitled "Preserving human life and dignity in armed conflict", adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

Taking note with appreciation of the report of the Secretary-General of 18 August 2008 on missing persons, prepared pursuant to General Assembly resolution 61/155 of 19 December 2006,[9]

Taking note with appreciation also of the ongoing international and regional efforts to address the question of missing persons and of the initiatives undertaken by international and regional organizations in this field,

1. *Urges* States strictly to observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949[1] and, where applicable, in the Additional Protocols thereto of 1977,[2]

[8] Resolution 61/177, annex.

[9] A/63/299.

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation;

3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. *Calls upon* States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;

6. *Recognizes*, in this regard, the need for the collection, protection and management of data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

7. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and to reunite them with their families;

8. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

9. *Urges* States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the concerned States, and welcomes, in this regard, the establishment and efforts of commissions and working groups on missing persons;

10. *Calls upon* States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of the missing persons and the need of their family members, in fields such as social welfare, financial matters, family law and property rights;

11. *Stresses* the need for addressing the issue of missing persons as a part of peacebuilding processes, with reference to all justice and rule-of-law mechanisms, on the basis of transparency, accountability and public involvement and participation;

12. *Welcomes* the panel discussion on the question of missing persons held at the ninth session of the Human Rights Council and takes note of the request of the

Human Rights Council to the United Nations High Commissioner for Human Rights to prepare a summary of the panel's deliberations;[10]

13. *Takes note* of the request of the Human Rights Council to its Advisory Committee to prepare a study on the best practices in the matter of missing persons and to submit that study to the Council at its twelfth session;[11]

14. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly;

15. *Requests* the Secretary-General to submit a comprehensive report on the implementation of the present resolution, including relevant recommendations, to the Human Rights Council at its relevant session and to the General Assembly at its sixty-fifth session;

16. *Also requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

17. *Decides* to consider the question at its sixty-fifth session.

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[10] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. II, decision 9/101 of 24 September 2008.

[11] Ibid.